



Department of
Human Resources

POLICY

Approved by: Rebecca R. Hunter, Commissioner	Policy Number: 12-021 (Rev. 02/18)
Signature: <i>Rebecca R. Hunter</i>	Supersedes: 11-029, 91-033, 12-021
Application: Executive Branch Agencies, Human Resource Officers, Supervisors and Managers	Effective Date: February 1, 2015
Authority: T.C.A. §4-3-1703, T.C.A. §8-30-104, T.C.A. §8-30-209	Rule: Chapter 1120-04

Subject:

Employees Assigned Duties of a Higher Level Classification

Tenn. Code Ann. § 8-30-209 states, "no preferred service employee shall be assigned to perform the majority of duties and responsibilities of a position in a higher level classification than that of the position occupied by the employee, without the approval of the appointing authority. When an employee is so assigned, the duration of such assignment may not exceed ninety (90) days without the approval of the Commissioner (of Human Resources)."

Approval Justification

When an agency determines there is a business need to assign the duties of a higher level preferred service position to a preferred service employee as per this policy, the Appointing Authority must include written justification to the Commissioner of the Department of Human Resources (DOHR) that includes the business reason for the assignment, identification of the position/job classification to which the assigned duties are normally assigned, and if needed, reasons for an overlap, salary exceptions, and/or other information required to complete the transaction. DOHR Agency Resource Center will review this justification for approval.

Responsibility

The employee's immediate supervisor, managers in the employee's chain of command, the agency human resources officer, and the appointing authority are responsible for ensuring the policy is properly enforced.

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Policy

In order for an employee to be eligible to perform the majority of duties and responsibilities assigned to a position in a higher level job classification, the employee *must* meet the minimum qualifications of the higher level job classification.

Higher Level Responsibilities Assigned to an Employee While an Employee is on Extended Leave

An appointing authority may appoint a qualified preferred service employee to perform the higher level classification duties for a defined period of time in which the employee in the higher level classification is on extended leave. The appointment will be made as an interim appointment overlapped with the incumbent employee in accordance with applicable rules and policies. The employee will receive a salary increase in accordance with standard promotional policy which will become effective on the date of the interim appointment.

All interim appointments must be made from the appropriate employment list certifying the employee has met the minimum qualifications of the higher level job classification. A preferred employee who receives an interim appointment under this policy will maintain all privileges of the preferred service while serving in this short-term appointment.

When a preferred service employee is assigned the duties of a higher level preferred service position, an agency may request an interim appointment overlap by submitting written justification to the Agency Resource Center for their review and/or approval/disapproval of the overlap.

An employee fulfilling the responsibility of another employee who is on extended leave will maintain such higher level duties until such time as the employee returns from extended leave. Such duties will cease upon the return of the incumbent employee.

Higher Level Responsibilities Assigned to an Employee When a Position is Vacant

If an agency assigns the duties and responsibilities of a position in a higher level classification to an employee because of a vacancy, the agency must fill the vacant position within sixty (60) days after the position becomes vacant through a regular, interim or emergency appointment. In this instance, if the vacant position is filled with an interim appointment, the employee may only work a maximum of twelve (12) months from the date of appointment. If the vacant position is filled with an emergency appointment, the employee may only work for a period up to one hundred and twenty (120) days. The agency will utilize this time in efforts to fill the position with a full time employee, if necessary.

Approval of Retroactive Assignments

When an appointing authority determines that an employee was assigned duties and responsibilities of a position in a higher level job class that exceeded ninety (90) days but was not approved by the Commissioner of the Department of Human Resources as required by law, the employee's supervisor

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and manager must provide written documentation to the appointing authority justifying the retroactive assignment. This documentation, along with the appointing authority's request for the backdated approval, is required as part of the Commissioner's review.

Retroactive assignments violate Tenn. Code Ann. § 8-30-209, which states the Commissioner must approve the work of an employee who is assigned to perform the majority of duties and responsibilities of a position in a higher level classifications if such assignment exceeds ninety (90) days. Therefore, the appointing authority may issue appropriate discipline to supervisory staff involved in allowing the violation. An appointing authority may submit written justification as to why such disciplinary action should not be taken. A copy of the disciplinary action taken or the written justification will be submitted in writing to the Department in conjunction with a retroactive pay request.

Compensation will be at the rate of pay in effect at the time the assigned duties and responsibilities of a position in a higher level class were performed. The provisions of the policy in place at the time the assigned duties of the higher level class were performed will be used to determine the length of time of the retroactive payment.

Executive Service Employees

An appointing authority may assign to an executive service employee additional job duties including such duties performed by an employee in a higher level job classification when such assignment is for the good of the service. Subject to funding, nothing in this policy will be interpreted to prevent executive service employees from being compensated for performing the duties of a higher level classification while serving in an acting capacity.

This policy hereby replaces and rescinds previous policies on this subject. However, this policy will not be retroactively applied. Questions regarding this policy may be directed to the Agency Resource Center (ARC).

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Supervisors, Managers, or Directors
Acknowledgement and Awareness Statement

I, _____, an employee who supervises, manages, or directs employees
(Print – your full name)

in the _____, I hereby certify that I have received
(Print – name of your department or agency)

a copy of the Department of Human Resources' Policy 12-021 that includes the following from Tenn. Code Ann. §8-30-209:

"no preferred service employee shall be assigned to perform the majority of duties and responsibilities of a position in a higher level classification than that of the position occupied by the employee, without the approval of the appointing authority. When an employee is so assigned, the duration of such assignment may not exceed ninety (90) days without the approval of the Commissioner (of Human Resources)."

I understand that without approval as detailed in policy 12-021, I cannot assign a preferred service employee a majority of the duties and responsibilities performed by a position in a higher level job classification than that of the employee's job classification.

If I have questions regarding policy 12-021, I should contact my agency's Human Resources Office or the Agency Resource Center in the Department of Human Resources.

Signature

Date

All supervisors, managers, and directors are required to complete, sign and submit this acknowledge statement to your agency's Human Resources Office.